



Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

SENATE TAXATION
EXHIBIT NO. 2
DATE 3-14-07
NO. DOR
Presentation

February 22, 2007

The Honorable Kelly Gebhardt, State Senator
The Honorable Robert Story, State Senator
The Honorable Jim Peterson, State Senator
The Honorable Jerry Black, State Senator
The Honorable Jeff Essmann, State Senator
State Capitol
Helena, Montana

Hand Delivered

Subject: Senate Bill 539 Testimony

Dear Senators:

You requested that the Department provide you with charts for the 2002 through 2006 period showing the valuation indicators and the weights assigned each indicator for the following companies: MDU Resources, Energy West, Qwest, Avista, and Puget Power. This information is attached as well as some additional information which we believe necessary to put the requested information in its proper context.

In connection with your request, it appears that my testimony may have been misunderstood or unclear. I believe that I refrained from commenting on any specific case. My statements, to the best of my recollection, were that the Department's appraisals were fair and conservative in relation to market value. The Department also believes that our appraisals are consistent with market value. I do not think that anyone from the Department has ever stated or implied that the Department uses a constant or fixed weighting on the respective indicators of value. To the contrary, the Department's consistent position, in line with appraisal practice and appraisal authority, has been that limiting appraisal methods by restricting the weightings is not a valid means of achieving fair market value assessments. States that have attempted to go to a formulaic approach have not had good success in either avoiding litigation or achieving fair market value assessments. Only two states out of 36 or 37 unit assessment states fix the weightings on their appraisal approaches. In particular, Minnesota abandoned fixed weightings.

We do not know what NorthWestern's purpose is in distributing limited and selective data related to its appeal. The Department's cited testimony was general and not specific to NorthWestern, which was appropriate because this case is in litigation. Nonetheless, given that the company has chosen to raise general issues based on a small slice of information, we now find it necessary to respond, albeit with caveats about the limitations imposed by the litigation.

For example, we are unable to share with you numerous appraisals of NorthWestern obtained during the course of discovery in the 2005 case because NorthWestern has designated them as "confidential." As you are probably aware, NorthWestern attracted several suitors during and after the bankruptcy proceedings including MPPI, Black Hills, MDU and B&BI.

NorthWestern emerged from bankruptcy reorganization about two months before the 2005 assessment date and its shares immediately jumped to \$25 and were trading in the range of \$28 on the valuation date. The offers for NorthWestern that MPPI, Black Hills and B&BI made were the subject of numerous confidential valuation analyses and due diligence investigations by investment bankers working for NorthWestern. We are also unable to share numerous confidential management projections and calculations based thereon. The presentation of the 2005 case before the State Tax Appeals Board took four full days and most of a fifth day and thousands of pages of documentary evidence were introduced.

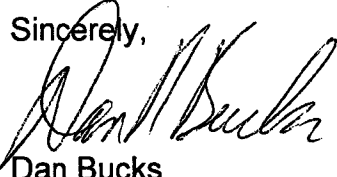
NorthWestern is an unusual case in unit assessment. In 2002, the company was proximately post merger between Montana Power and NorthWestern. This merger and the surrounding information gave the Department a highly relevant market indicator of the valuation of the company. By 2003, however, it was clear that the non-utility non-unit-assessment portions of the company were dragging the market indicators down and were depressing the overall value of the company. In 2004 the company was in bankruptcy reorganization and its valuation was subject to a settlement. In 2005, the company had emerged from bankruptcy, its income prospects and market prospects were bright, the company was in play and NorthWestern was receiving offers at a premium over its stock price. In early 2006, the company was again subject to a merger at a significant premium over its stock price. In these widely varying circumstances, we believe the use of a fixed weighting of the indicators of value would have produced results not defensible in terms of the market value of the company. Please note, as well, that in general that the Department's valuation of this company put the greatest weight on the indicators with the lowest values.

The attached tables demonstrate that in comparison to a fixed weighting approach, company values would show positive and negative changes year by year and that some companies would generally fare better and other companies would generally fare worse than under the Department's current practices. In fact, of the 35 company tax years, only 11 would have resulted in lower values and 24 would have been higher. In this comparison we used for the fixed weighting a typical, representative weighting used in many cases. Whatever fixed weighting is chosen, you will find that there are circumstances that defeat the weighting scheme and arbitrarily produce winners and losers.

Senators Gebhardt, Story, Peterson, Black and Essmann
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We hope this information is helpful and responsive. We, of course, would be glad to answer any questions concerning these matters.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dan Bucks", written over the word "Sincerely,".

Dan Bucks
Director
PO Box 5805
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C. The Honorable Jim Elliott, Chair of Senate Taxation Committee